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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

DEC 20 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)

Petitions for Emergency Relief)

)

Regarding Release of the 855 Toll Free Code)

CC Docket No. 95-155

File No. NSD-L-00-249

REPLY COMMENTS OF TOLL FREE NUMBER COALITION

The Toll Free Number Coalition ("TFNC"), by its attorneys and pursuant to the Commission's Public Notice in the above-captioned matter, hereby replies to comments submitted by the Toll Free Commerce Coalition ("TFFCC"), WorldCom, Inc., and Sprint Corporation with respect to the release of the 855 toll-free code.¹

For the reasons set forth below, TFNC submits that the comments filed by WorldCom and Sprint ignore or belittle the magnitude of the flaws in the current administration of toll free number releases by the SMS/800 Management Team ("SMT") and Database Management Services, Inc. ("DSMI") (collectively, "SMT/DSMI"), and offer no evidence rebutting TFNC's claims. TFNC accordingly reiterates its request (which WorldCom and Sprint also ignore), that the Commission issue a Public Notice refreshing the record in this docket, resolve all pending petitions for reconsideration, and defer the release of the 855 toll free service code until such time as such petitions have been resolved and SMT/DSMI

¹ Public Notice, DA 99-2688, released November 29, 2000, CC Docket No. 95-155, File No. NSD-L-00-249 ("Comments Sought on Petitions for Emergency Relief Regarding Release of the 855 Toll Free Code").

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has demonstrated to the satisfaction of the Commission that it has adequately rectified the problems which marred its previous rollouts.²

In their respective Comments, WorldCom and Sprint do not contest the evidence submitted by TFNC and TTFCC that previous toll free numbers, including the most recent allocation of the 866 code five months ago, have been riddled with irregularities, resulting in the lockout of many Responsible Organizations ("RespOrgs") for extended periods of time. These improprieties have had a particularly adverse impact on smaller RespOrgs utilizing graphical user interfaces ("GUI") and dial-up systems to reserve numbers. By SMT/DSMI's own admission, the playing field between online/GUI users and RespOrgs utilizing mechanized generic interfaces ("MGI") has not been level historically, and MGI RespOrgs have been able to reserve numbers more rapidly, without the congestion delays and lockups experienced by online/GUI users.³ These problems have prevented smaller RespOrgs and toll free number subscribers from reserving numbers critical to their businesses.

In opposition to the relief sought by TFNC and TTFCC, WorldCom and Sprint charge that Commenters have failed to demonstrate that use of the MGI interface is the source of this problem, and that Commenters seek to "penalize" RespOrgs who have chosen to invest in an MGI interface,⁴ and to "deprive" MGI

² Although TFNC's prayer for relief differs from TTFCC, TFNC concurs with the general views expressed in TTFCC's Comments.

³ See TFNC Comments, p. 3.

⁴ Sprint Comments, p. 4.

users of the use of that interface.⁵ TFNC, however, has never alleged that the MGI interface is the direct cause of the lockups which GUI/online RespOrgs have confronted, or sought to limit the ability of other RespOrgs to utilize MGI access.⁶ Rather, TFNC has pointed to the recurring inability of GUI/online RespOrgs to reserve toll free numbers on a "first come, first served" basis, consistent with the Commission's rules and SMT/DSMI's filed tariff, and the persistent refusal or inability of SMT/DSMI to rectify these problems. The problem is not, as WorldCom and Sprint assert, with certain RespOrgs that have unwisely elected to use GUI/online interfaces, or declined to make the substantially more costly investment which MGI technology entails.⁷ Rather, it is with SMT/DSMI, which has failed to comply with the Commission's mandate and the terms of its own tariff to ensure

⁵ WorldCom Comments, p. 4.

⁶ The Commission itself has noted, however, that a first come, first served reservation policy combined with the use of MGI may put smaller RespOrgs at a competitive disadvantage. *See Toll Free Access Codes*, 11 FCC Rcd 2496, ¶ 22 (1996).

⁷ In their ardent support of the status quo, both WorldCom and Sprint blame the persistent lockouts which have beset GUI/on-line RespOrgs on the decision by these RespOrgs not to invest in more costly, but presumably more efficient, MGI technology. WorldCom Comments, p. 4; Sprint Comments, p. 3. The premise that MGI access achieves greater efficiencies than GUI or on-line connections, however, is questionable at best. Presumably, the reason SMT/DSMI charges RespOrgs a much higher fee for the MGI interface (\$500,000+ vs. \$136 for dial-up access; SMT/DSMI Tariff, Section 4.2) is not because it is more efficient, but because SMT/DSMI incurs much higher costs to effect an MGI interface. In terms of efficiency, however, on-line access is plainly superior. Designed for main frame computers, MGI technology is clearly less cost efficient for tasks, such as number reservations, which do not require main frame systems. Using on-line access and easily programmable routines, moreover, a single RespOrg is able to submit roughly 1,200 number requests per hour, enabling it to handle the 423,176 reservations made by all service providers during the past month (Source: Number Administration Summary Report for Saturday 12/16/00) in 352 hours. While an MGI interface can probably submit the same number of reservations within a few minutes, it typically takes RespOrgs seven or more days to provision a new toll free number. To the customer, it makes no difference whether it took the RespOrg 3 seconds or 0.3 seconds to process a request. The substantial costs of the MGI interface, however, will be passed on to the unwitting consumer. SMT/DSMI's current number allocation system therefore favors a less efficient, more costly technology which affords no apparent benefits, and potentially higher expenses, for the end user. At the same time, it penalizes more efficient GUI/on-line RespOrgs who choose to forgo these substantial expenditures, and offer more timely, cost-effective service to consumers.

that all RespOrgs are able to reserve toll free numbers on a "first come, first served" basis.

Clearly, there are many other possible methods for allocating numbers which are fairer, and more equitable, than SMT/DSMI's current procedures. In addition to rectifying the "lock out" problem which TFNC and TTFCC have identified, SMT/DSMI could, for example, model its number rollouts after the NFL's draft rules, by allowing RespOrgs to submit requests on a single day, within an hour or two, and granting requests – one from RespOrg A, one from RespOrg B, etc. – until all requests have been processed. The order of RespOrgs could be changed in each round, or chosen by lottery, and on the very next day, all numbers could be activated. Recognizing the inequities which have marked past rollouts, it might even be appropriate to give non-MGI participants some preference in such a draft, to rectify past injustices.

Given SMT/DSMI's track record, it would also be irresponsible for the Commission to accept SMT/DSMI's self-serving assertions that it has fixed the problem which TFNC and TTFCC have identified and which SMT/DSMI itself concedes.⁸ As TFNC observed in its initial Comments, SMT/DSMI has failed to provide RespOrgs or the Commission with hard, confirmable data supporting its assurances. On the contrary, public documents, including SMT/DSMI's own

⁸ TFNC concurs with TTFCC that, among the many flaws in SMT/DSMI's administration of number rollouts is its most recent failure to provide RespOrgs with a minimum sixty (60) days advance notice of changes used to input data on-line, as required by Section 2.1.6(C) of the SMT/DSMI tariff. In contravention of this requirement, SMT/DSMI provided RespOrgs with information on its revised software for the 855 rollout on October 4, and did not furnish the software itself until November 4, just two weeks before the scheduled allocation.

correspondence, contradict its claim. To avoid yet another recurrence of the problems which have plagued SMT/DSMI's past administration of toll free number rollouts, the Commission should defer the release of the 855 toll free service code until such time as SMT/DSMI has demonstrated to the satisfaction of the Commission (with opportunity for comment by all interested parties) that it has adequately rectified the problems which marred previous rollouts, and that this new allocation will be administered in a fair, orderly and non-discriminatory manner.

Finally, contrary to Sprint's claim, the delay in the 855 number rollout which TFNC and TTFCC seek is not "infinite."⁹ As both SMT/800 and WorldCom observe, toll free numbering resources are not in imminent danger of exhaustion.¹⁰ On the contrary, by SMT/DSMI's own records, toll free number exhaustion will not occur for until October 1, 2004.¹¹ While TFNC agrees with WorldCom that RespOrgs and service providers need sufficient time to plan for new allocations, WorldCom itself concedes that "the Commission can complete any needed investigation or further

⁹ Sprint Comments, p. 4.

¹⁰ WorldCom Comments, pp. 3, 4.

¹¹ See TFNC Comments, p. 3.

testing of the reservation system within six months."¹² We respectfully submit that there is more than enough time for the Commission to address the concerns raised in the Emergency Petitions of TFNC and TTFCC without prejudice to other parties.

Respectfully submitted,

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¹² WorldCom Comments, p. 3.

CERTIFICATE OF SERVICE

I, Eric Fishman, hereby certify that on December 20, 2000, copies of the attached Reply Comments of Toll Free Number Coalition were hand-delivered to the following persons at the addresses below unless otherwise indicated.

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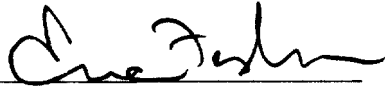
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